

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

329C0815

HOUSE BILL NO. 1273

Introduced by: Representatives Crisp and Koskan and Senator Frederick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions and an inspection fee regarding
2 moisture-measuring devices and protein-measuring devices.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 38-31-1 be amended to read as follows:

5 38-31-1. Terms used in this chapter, ~~unless the context otherwise requires,~~ mean:

6 (1) "Agricultural commodity," any grain or seed which is ordinarily tested for moisture
7 content when offered for sale, processing, or storage;

8 (2) "Department," the Department of Agriculture;

9 (3) "Moisture-measuring devices," any ~~electronic~~ device or instrument used in
10 ascertaining the moisture content of agricultural commodities;

11 (4) "Protein-measuring devices," any ~~electronic~~ device or instrument used in ascertaining
12 the protein content of agricultural commodities;

13 (5) "Secretary" the secretary of the Department of Agriculture.

14 Section 2. That § 38-31-2 be amended to read as follows:

15 38-31-2. The ~~department may~~ Department of Commerce and Regulation shall, upon the
16 written request of any elevator or upon the written complaint and request of any individual
17 selling agricultural commodities, inspect any moisture-measuring device or protein-measuring

1 device used in commerce in this state, except those belonging to the United States. The
2 ~~department~~ Department of Commerce and Regulation may inspect at the convenience of the
3 ~~department~~ Department of Commerce and Regulation any moisture-measuring or
4 protein-measuring device.

5 Section 3. That § 38-31-3 be amended to read as follows:

6 38-31-3. If an inspection or comparative test reveals that the moisture-measuring device or
7 protein-measuring device being inspected or tested conforms to the standards and specifications
8 established by the department, the ~~department~~ device shall ~~mark it~~ be marked with an appropriate
9 seal. Any moisture-measuring device or protein-measuring device which upon inspection is found
10 not to conform with the specifications and standards established by the department shall be
11 marked with an appropriate seal showing the device to be defective, which seal may not be
12 altered or removed until the device is properly repaired and reinspected. The owner or user of
13 ~~such the defective~~ device shall be notified in writing on the date of the inspection of such the
14 defective condition by the ~~department on an inspection form prepared by the department~~
15 Department of Commerce and Regulation or its designated inspector.

16 Section 4. That § 38-31-5 be amended to read as follows:

17 38-31-5. A fee not to exceed ~~twenty-five~~ one hundred dollars may be charged for each device
18 subject to inspection under the provisions of this chapter and rules promulgated thereunder. The
19 department shall establish the amount of the fee by rule promulgated in accordance with chapter
20 1-26.

21 Section 5. That § 38-31-8 be amended to read as follows:

22 38-31-8. No person may use or cause to be used a moisture-measuring device or
23 protein-measuring device in commerce that has been inspected by the ~~department~~ Department
24 of Commerce and Regulation and was determined to be defective. If conviction for a violation
25 of this section is for a first offense, the person is guilty of a Class 2 misdemeanor. If conviction

- 1 for a violation of this section is for a second or subsequent offense, the person is guilty of a Class
- 2 1 misdemeanor.